

1
2 *IN THE UNITED STATES DISTRICT COURT*
3 *FOR THE WESTERN DISTRICT OF MICHIGAN*
4 *SOUTHERN DIVISION*

5 UNITED STATES OF AMERICA,

6 Plaintiff,

7 vs.

Case No. 1:22-cr-154

8 MICHAEL JOHN BATT,

9 Defendant.

10 _____/

11 *SENTENCING HEARING*

12 *BEFORE THE HONORABLE JANET T. NEFF*
13 *United States District Judge*

14 *Lansing, Michigan, Wednesday, August 16, 2023*

15 APPEARANCES:

16 For the Plaintiff: MR. PATRICK JAMES CASTLE
17 330 Ionia Avenue, NW
18 P.O. Box 208
19 Grand Rapids, MI 49503

20 For the Defendant: DAMIAN D. NUNZIO
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24 REPORTED BY: GENEVIEVE A HAMLIN, CSR-3218, RMR, CRR
25 Federal Official Court Reporter
 110 Michigan Avenue NW
 Grand Rapids, MI 49503

1 Grand Rapids, MI

2 August 16, 2023

3 11:05 a.m.

4 *PROCEEDINGS*

5 THE CLERK: All rise, please. Hear ye, hear ye, hear
6 ye. The United States District Court for the Western District
7 of Michigan is now in session. The Honorable Janet T. Neff,
8 United States District Judge, presiding.

9 All persons having business before this Court, draw
10 near, give attention, and you shall be heard. God save these
11 United States and this Honorable Court. Court is now in
12 session. Please be seated.

13 THE COURT: Good morning, everybody.

14 MR. NUNZIO: Good morning.

15 THE COURT: This is the date and time for sentencing
16 in case number 1:22-cr-154, the United States of America
17 versus Michael John Batt.

18 May I have appearances and introductions, please?

19 MR. CASTLE: Good morning, Your Honor. Patrick
20 Castle on behalf of the United States.

21 THE COURT: Thank you.

22 MR. NUNZIO: Good morning, Your Honor. Damian Nunzio
23 on behalf of the defendant, Michael John Batt, who is to my
24 left, Your Honor.

25 THE COURT: Thank you. On April 25, 2023, Mr. Batt

1 appeared before Magistrate Judge Phillip Green and entered a
2 guilty plea to Count 1 of a two count indictment which also
3 includes a forfeiture count.

4 Count 1 charges sexual exploitation and attempted
5 sexual exploitation of a child, that offense being contrary to
6 18 USC 2251(a) and (e).

7 There is a mandatory 15 year minimum sentence with
8 that crime to a maximum of 30 years imprisonment and a maximum
9 \$250,000 fine.

10 The offense behavior can be fairly summarized as
11 follows: There's a minimal factual basis of the crime at
12 paragraph 8 of the plea agreement and it reads as follows:

13 Defendant and the United States Attorney's Office
14 agree and stipulate to the following statement of facts which
15 need not be proven at the time of the plea or sentencing.

16 On September 19, 2022, defendant used his iPhone,
17 which was manufactured in China, to take photographs of child
18 one who was three years old. Two of the photographs depict
19 lascivious exhibition of child one's anus and genitals.

20 On September 20, 2022, the defendant distributed
21 those two photographs over the internet, and just for
22 clarification purposes I want to also put on the record this
23 from the pre-sentence report, for guideline purposes Mr. Batt
24 is responsible for an offense against a minor victim who had
25 not attained age 12 for the offense involving a sexual act or

1 sexual conduct -- contact or knowingly engaging in
2 distribution of material portraying a toddler and for being
3 the parent of the minor involved in the offense.

4 The magistrate judge's report and recommendation was
5 adopted on May 11, 2023. There is a written plea agreement in
6 this case which I accept at this time, and I find that the
7 charge pled to adequately reflects the seriousness of the
8 defendant's actual offense behavior.

9 There is also a pre-sentence report.

10 Mr. Castle, does the government have any issue with
11 the factual recitation in the report?

12 MR. CASTLE: No, Your Honor.

13 THE COURT: Thank you. Mr. Nunzio, on behalf of the
14 defendant, any issue with the facts as set out in the report?

15 MR. NUNZIO: No. Thank you, Your Honor.

16 THE COURT: Thank you. Mr. Batt, a couple of
17 questions for you. Would somebody please pull that microphone
18 a little bit closer? Thank you.

19 Mr. Batt, have you read the pre-sentence report?

20 THE DEFENDANT: Yes.

21 THE COURT: Have you discussed it carefully and
22 thoroughly with your attorney, Mr. Nunzio?

23 THE DEFENDANT: Yes.

24 THE COURT: As you sit here in the courtroom this
25 morning is there anything about the report that you either

1 don't understand or about which you have any question?

2 THE DEFENDANT: No.

3 THE COURT: Now, you have retained Mr. Nunzio to
4 represent you, as is your right. If you had been indigent,
5 you could have requested appointed counsel. That would have
6 been your right, too, but in any event, have you been
7 satisfied with the work that Mr. Nunzio has done on your
8 behalf in this case?

9 THE DEFENDANT: Yes.

10 THE COURT: Okay. The pre-sentence report includes a
11 calculation of the guidelines and the guideline advisory
12 ranges as follows:

13 The offense level is 43. Criminal history category
14 is computed at one based on zero criminal history category
15 points, and those two calculations place this case in Zone D
16 of the grid where the advisory range for incarceration is
17 life. However, as noted earlier, there is a 30-year maximum
18 potential incarceration penalty in this case.

19 The supervised release range is five years to life.
20 The fine range is 50,000 to \$250,000. Restitution has at
21 least tentatively been calculated at \$19,000.

22 There is a special assessment which is mandatory of
23 \$100, but also in this case we have the potential for a \$5,000
24 special assessment under the Justice for Victims of
25 Trafficking Act and a potential \$50,000 assessment under the

1 Child Pornography Victim Assistance Act of 2018.

2 There are no objections to scoring in this case, and
3 my calculations are the same as the pre-sentence writer's.
4 Offense level 43, criminal history category one, advisory
5 range for custody, 360 months; advisory range for supervised
6 release, five years to life; advisory range for fine, 5,000 to
7 \$250,000; restitution at \$19,000; a special assessment of \$100
8 along with the potential assessments for the juveniles with --
9 I'm sorry, the Justice for Victims of Trafficking and the
10 Child Pornography Victim Assistance Act of 2018.

11 There have been no motions for departure under the
12 guidelines and, again, the advisory ranges are for
13 incarceration, 360 months, for supervised release, five years
14 to life, the fine range 50,000 to \$250,000.

15 Counsel, are you in agreement with the accuracy of
16 those calculations? Mr. Castle?

17 MR. CASTLE: Yes, Your Honor.

18 THE COURT: Thank you. Mr. Nunzio?

19 MR. NUNZIO: Yes, Your Honor.

20 THE COURT: Thank you. Mr. Nunzio, are you ready for
21 your allocution?

22 MR. NUNZIO: Yes, Your Honor.

23 THE COURT: Please come --

24 MR. NUNZIO: Do you want me to come to the podium
25 with Mr. Batt?

1 THE COURT: Yes.

2 MR. NUNZIO: Thank you. Come on. Your Honor, if it
3 pleases the Court, at this time Mr. Batt, who I've known now
4 for close to a year since this matter had started, his family,
5 friends, there are two priests and a decan in the court who
6 undeniably show their love and respect for Michael, and in no
7 way do I want this Court to think that we're minimizing
8 anything that took place here. He plead guilty. He accepted
9 responsibility, and he knows he has to be punished.

10 You know, in our request for downward variance, Your
11 Honor, we had put in at least references to the type of person
12 Michael is and Michael was during a period of time prior to
13 when this event took place, and I've come to know him for the
14 multiple, multiple visits that I've had with him at the
15 Newaygo County jail and I've always found him to be courteous,
16 cordial, remorseful, repentant in his way, and he does have
17 the love and affection of a very successful family, doctors,
18 lawyers, other successful people in the family, and there is
19 no rational explanation regarding why or what he did with
20 respect to this. It's just not rational to sit up here and
21 say he did it because of this reason or that reason. That
22 was, undeniably, a selfish act on his part. It is torrid. It
23 is just not kind. It's inappropriate, just to use a few
24 words.

25 But having practiced for many years, mostly down the

1 street in Kent County courthouse, I -- there is just no
2 rational explanation for why someone would do this, especially
3 in light of the wonderful family that I've met over the past
4 year or close to the last year. And the sentencing guidelines
5 are just high. They're horrific. They're accurate, but
6 they're horrific. There is a mandatory minimum of 15 on this,
7 and the question is -- that Michael and I have been talking
8 about is, you know, what's the balance? What's the Court
9 going to do? What's the right thing to do? And he knows he
10 has to be punished and he knows he has to be punished for a
11 long period of time. That's without question, Your Honor.
12 But with the letters of recommendation, the character
13 references that he received, there is still potential for his
14 life if he has the opportunity to get out at some point to
15 help cure what he turned to bad. He's lost his girls. He's
16 lost his wife, his family, respect, reputation. It's just --
17 it was -- it was a cascading event that just tumbled into
18 where we are here today.

19 You know, you talk to family members, and I know the
20 Court sees them here today, and friends, and how do you
21 explain to them why or what he did? And there is no
22 explanation. There is no rational explanation other than it
23 was wrong, it is wrong, and that's why, you know, the
24 legislature had put this kind of time frame on these cases to
25 let people know, let the community know, let the United States

1 know that this conduct is just unacceptable in every form.
2 Every form. And I'm not going to sit up here and say he
3 didn't kill anybody, he didn't do this, he didn't do that,
4 because that's just -- that's just another dimension that
5 doesn't even apply to this case. He knows what he did was
6 wrong, and he accepted responsibility for it.

7 What we're asking the Court to do is just consider
8 and fashion a sentence that he will have the opportunity to
9 join up with his family sooner rather than later, and I use
10 those words specifically, sooner rather than later. The Court
11 will decide what sooner and what later is, but we're not going
12 to minimize but apologize for the conduct that he had
13 committed. We're not giving any explanation other than it was
14 wrong and he knows he has to be punished for it.

15 His family is just absolutely devastated over this.
16 The people I've talked to and met over the past close to a
17 year, just devastated, and their hope is that he gets out
18 sooner rather than later so that he can at least start on
19 anew, start afresh, learn from not a mistake but a wrongful
20 act. I know the Court hears a lot that people come here
21 before the Court and say, I made a mistake, what I did -- no,
22 this is not a mistake. This was an intentional wrongful act
23 by my client. Nothing short of that.

24 I know he wants to make a few words to the Court
25 regarding his intentions today as they have been for the past

1 close to a year since last October about his remorse, his
2 sorrowfulness, what he's done to his family, both his
3 immediate family and the family in the courtroom today so the
4 Court has an understanding of there is rehabilitation, there
5 is -- there is penance. The question is how long, how severe,
6 and we're just hoping the Court takes into consideration some
7 of the good things that have been said on his behalf when it
8 fashions the sentence for Mr. Batt. Thank you, Your Honor.

9 THE COURT: Thank you, Mr. Nunzio. Mr. Batt, as
10 indicated by Mr. Nunzio, at this point in time you have the
11 right to speak on your own behalf to tell me anything you
12 think I should know about you or about what you've done before
13 I pass sentence in this case, so let me hear what you have to
14 say.

15 MR. NUNZIO: Tell her from the heart.

16 THE DEFENDANT: I have --

17 MR. NUNZIO: Speak loud.

18 THE DEFENDANT: I have no explanation for what I've
19 done. It was wrong. I know it was wrong. I've devastated my
20 family, you know, my kids, my wife, all my brothers and
21 sisters, all my friends, family, people that have known me.
22 I've disappointed them. Myself, I've disgusted myself, and I
23 hope that I can make it up to them, that they'll see me the
24 way that I was and see the person that I am and want to be.

25 THE COURT: Well, who is the person that you are?

1 THE DEFENDANT: I was a hard worker, a loving father,
2 I worked within the community. I always did my best. I
3 always helped people. I helped whoever I could that was in
4 need. I tried never to pass judgment on anybody. I was
5 always there willing to help with whatever anybody needed.

6 It would be very beneficial to me to seek therapy to
7 help me work through, you know, these mental problems that
8 caused me to act the way that I did to try and figure out any
9 sort of explanation for why, to help through the emotional
10 problems of, you know, destroying my family and my extended
11 family and all of my friendships.

12 THE COURT: You have to know, Mr. Batt, that lots of
13 people come through this courtroom and the other courtrooms in
14 this building having committed wrongful, illegal acts, and the
15 one that you have committed stands out as the most appalling
16 of all. As parents we owe our children a lot beyond the
17 basics of food and a roof over their heads and all of that.
18 We owe them a sense of safety and trust, and that I think is
19 why this offense is so abhorrent to just about everybody, and
20 we'd like to know why dads do this kind of thing, and if you
21 don't know, I'm not sure the rest of us can figure it out
22 either, but we do know that society looks down on this kind of
23 crime, and we see what the sentencing guidelines tells us is
24 appropriate for punishment, but if there's anything more you'd
25 like to share, please do so.

1 THE DEFENDANT: Yes. I would -- I would like to
2 apologize to my wife -- my ex-wife and my children. They are
3 a little piece of my soul that I will never get back, and I
4 could never begin to make up for what I did to them. I miss
5 them dearly. I think about them every day. I pray for them
6 every day. They are -- they are something that was my life
7 and I wanted to do no wrong to them and yet I did, and I have
8 to pay for that, and I have to hope that they will be okay,
9 that they will be able to live out the rest of their lives in
10 relative comfort and success, and I can always look forward to
11 the fact that they will, you know, hopefully be successful in
12 that life.

13 There are no words that I could say to them that
14 would truly cover an apology. I can just offer the words I'm
15 sorry for what I've done and hope that they can glean further
16 meaning from them.

17 THE COURT: Thank you. You may return to your seat.

18 MR. NUNZIO: Yes, Your Honor.

19 THE COURT: Mr. Castle, on behalf of the government,
20 please.

21 MR. CASTLE: Thank you, Your Honor. You know, as a
22 general matter, as the Court has identified, the gravity of
23 this crime speaks for itself. However, because Mr. Batt
24 believes that leniency is warranted, that a downward variance
25 would be appropriate, I feel compelled to highlight to the

1 Court a few specific observations.

2 First, in response to Mr. Nunzio's comments and Mr.
3 Batt's remarks, however horrific this conduct was, there is a
4 rational explanation for it. Rational explanation is that Mr.
5 Batt has a sexual attraction to children, that he had access
6 to two vulnerable victims, his own two daughters, and that he
7 took opportunity -- took advantage of that access to abuse
8 them.

9 A few comments from the record we have, from the PSR.
10 What we see from the pre-sentence report and even from the
11 letters of support that were filed on Mr. Batt's behalf is
12 that Mr. Batt's daughters were especially trusting of and
13 reliant on him. Mr. Batt emphasized in his statements to the
14 probation officer that his children are his proudest
15 accomplishment, and nearly all of Mr. Batt's supporters in
16 their letters to the Court commented on his relationship with
17 his daughters, and they variously remarked on how much
18 responsibility he held for them and that they trusted and
19 relied on him. One letter described them as devoted to him.
20 The notion, however, that, as Mr. Batt just suggested to the
21 Court, stepping back and taking a holistic view, that Mr. Batt
22 is a loving father is, quite frankly, absurd.

23 The second observation I would point out is that Mr.
24 Batt physically abused his daughters. First, although his
25 daughters did not report abuse and investigators did not find

1 evidence of it, he explained to the undercover detective who
2 he thought was another person who had a sexual interest in
3 children that he abused his children sneakingly and carefully.
4 He disguised it as play or as cleaning so as to avoid
5 detection from his wife and others. He later retracted that
6 admission, but as quoted in the pre-sentence report, he
7 described what he did in graphic detail, and he created child
8 pornography of his children and distributed it, and he has
9 admitted and there's no objection to the pre-sentence report
10 scoring for sexual contact.

11 We don't know how much of what he described is
12 fantasy and how much of it is real, but we know the nature of
13 what he did and we know that there is no -- no objection to
14 that on Mr. Batt's behalf today.

15 Next, Mr. Batt worked in IT in a public school, and
16 in his statements to investigators he made a reference to
17 viewing child pornography in investigations in that context,
18 so even in his profession he held a position of public trust
19 that he evidently used as a means of viewing child
20 pornography, which is especially concerning.

21 Next, Mr. Batt worked as a private IT consultant, and
22 he acknowledged obtaining child pornography from clients'
23 computers, presumably instead of reporting them to law
24 enforcement, another huge concern and distinguishing factor in
25 this case.

1 Finally, the government would ask the Court to
2 consider the broader range of victims in this case even beyond
3 Mr. Batt's daughters, including his ex-wife, his ex-wife's
4 family of which a member is here today, Mr. Batt's own family,
5 everybody in the lives of these little girls who love them and
6 who have been affected by this so significantly. Even beyond
7 those victims, Mr. Batt had amassed an absolutely massive
8 collection of child pornography, and the restitution requests
9 in this case are from victims of that relevant conduct. As
10 the Court knows, there's not a restitution request from his
11 victims of the charged offense. Tens of thousands of files
12 that he maintained on an encrypted drive. As he explained to
13 the undercover investigator, it required technical know-how to
14 secretly amass and store that collection, and he offered to
15 advise the undercover detective on how he, too, could become a
16 more sophisticated collector and consumer of child
17 pornography, and so for these reasons the government opposes
18 defendant's request for a downward variance.

19 THE COURT: Thank you, Mr. Castle.

20 Well, the guidelines are generally advisory, but not
21 completely in this case because there is the mandatory 15-year
22 minimum sentence of confinement, but in any event, I do have
23 to consider those guidelines in reaching a sentence which
24 reflects my duty to impose a sentence which is sufficient but
25 not greater than necessary to comply with the purposes of

1 Section 3553(a).

2 Now, the statute starts off instructing the Court to
3 consider the nature and circumstances of the offense and the
4 seriousness of the offense, and I think I've already explained
5 what I think the seriousness of the offense is. The sexual
6 exploitation of defendant's two young daughters is pretty much
7 off the scale in terms of seriousness, and in addition,
8 particularly with regard to Count 2, which is going to be
9 dismissed by the government, but, nevertheless, I can
10 consider, but under Count 2 it's clear that Mr. Batt
11 distributed other photographs other than the two of his 3-year
12 old daughter.

13 The history and characteristics of the defendant.
14 Mr. Batt shows us that he's 36 years old, he's now divorced as
15 a result of this offense. His two young daughters are the
16 primary victims in this case. He's well educated. He has a
17 large and very supportive family. I didn't count the letters
18 but there are a lot of letters from his siblings, his parents,
19 his grandmother which give a picture that is not at all
20 compatible with the actions and, in fact, the words of Mr.
21 Batt. As Mr. Castle indicated, the prehearing report cites
22 and quotes things that Mr. Batt said to others with regard to
23 his activities, but his family knows him in a much different
24 context, and I imagine that it was -- maybe not, but I imagine
25 it was pretty difficult to carry out that picture of a family

1 oriented person who cared greatly for his family members, who
2 was a great helpmate to his siblings, his grandmother who
3 was -- who she saw as a great father, to maintain that --
4 maybe that was the fantasy, but to maintain that picture while
5 carrying out these very -- unacceptable is hardly the word --
6 offenses for which he has plead guilty.

7 The purposes of sentencing certainly are all in play
8 in this case. Punishment, respect for the law, perhaps most
9 importantly specific deterrence to criminal conduct,
10 protection of the public, although as pointed out by Mr.
11 Castle, in the additional areas for assessment there is a
12 recognition of the much broader victimization that takes place
13 as a result of the collection and distribution and, in this
14 case, manufacture of child pornography, and I cannot emphasize
15 enough to all of you who are here just how awful child
16 pornography can be. In my role I sometimes have to look at it
17 myself, and it is not anything that any of you want to
18 experience. And Mr. Batt, as noted, had an extensive
19 collection of this kind of photography.

20 Now, one of the factors involved in the statutory
21 requirements is to find out whether the defendant needs
22 medical, educational, or correctional treatment. Certainly
23 correctional treatment, but I think also he's correct that to
24 provide him with some way to understand and correct the kinds
25 of impulses that led him to do what he did.

1 The final thing under the statute, the statute says
2 we want to avoid unwarranted disparities, and I don't think
3 that really comes into play here. I think in general the
4 sentences that are meted out for this kind of behavior are
5 certainly within the realm of what the guidelines call for.

6 Now, Mr. Nunzio, the good lawyer that he is, makes a
7 very strong argument, strong in the sense that I think it
8 really covers the bases in terms of what factors should be
9 considered in granting a variance, but to say that Mr. Batt
10 knows he needs mental health treatment, he's empathetic, he
11 has been a good brother to his younger siblings and to his
12 extended family, that he was a good dad to his daughters, and,
13 you know, that comes through in terms of everything other than
14 the most important thing which is what he did to them. That
15 he's had mental health and -- problems and poor coping
16 mechanisms, that he now understands how grave his crime was
17 and in particular the contribution to the child pornography
18 industry. He's remorseful, not violent. His images didn't
19 depict violence or sexual penetration. He's lost everything,
20 and that he can be rehabilitated. And that remains to be
21 seen, but none of that, I think, puts a dent in the magnitude
22 of the offense that has been committed here, so I decline to
23 grant a variance on Mr. Nunzio's argument, as careful as it
24 is, and pursuant to the Sentencing Reform Act of 1984, it is
25 my sentence that Mr. Batt serve 360 months incarceration to be

1 followed by 10 years of supervised release subject to the
2 standard conditions of reporting and remaining law abiding.

3 Now, before our hearing this morning we provided Mr.
4 Batt and Mr. Nunzio with an order regarding additional
5 sentencing conditions. Both of them have signed that order
6 indicating they've reviewed it and understand it, and I am
7 signing that order for entry right now.

8 The fine in this case is waived. I do order the
9 mandatory special assessment -- well, first of all,
10 restitution. Mr. Castle, am I correct that the \$19,000 is all
11 of the restitution that the U.S. Attorney's Office is aware of
12 being requested?

13 MR. CASTLE: Yes, Your Honor.

14 THE COURT: Okay. I order the \$19,000 requested
15 restitution.

16 I also order the mandatory special assessment of \$100
17 as well as an assessment of \$5,000 under the Justice for
18 Victims of Trafficking Act and \$10,000 under the Child
19 Pornography Victim Assistance Act.

20 I will make the following recommendations to the
21 Bureau of Prisons. First, for educational and vocational
22 programming. Second, for mental health evaluation and
23 treatment as indicated. Third, for sex offender programming,
24 and, finally, Mr. Nunzio, does your client have a specific
25 request with regard to placement?

1 MR. NUNZIO: Yes, Your Honor. If the Court could
2 make a local placement here to the state of Michigan, either
3 in Indiana or Ohio, I think those are the closest, Your Honor.

4 THE COURT: Okay.

5 MR. NUNZIO: Thank you.

6 THE COURT: Understanding that it is the final
7 responsibility of the Bureau of Prisons to determine
8 placement, but I can make a recommendation to the extent they
9 may follow it or not.

10 Mr. Castle, does the government move to dismiss Count
11 2 of the indictment?

12 MR. CASTLE: Yes, Your Honor.

13 THE COURT: That is granted. There was a preliminary
14 order of forfeiture entered on July 31, 2023. Do we
15 anticipate a final order at some point?

16 MR. CASTLE: We will submit one, Your Honor.

17 THE COURT: Thank you. Are there any legal
18 objections to the sentence which I've just imposed; that is,
19 is there any reason that's not already on the record why
20 sentence should not be imposed as indicated. Mr. Castle?

21 MR. CASTLE: No, Your Honor.

22 THE COURT: Mr. Nunzio?

23 MR. NUNZIO: We have none. Thank you.

24 THE COURT: Thank you. Mr. Batt, we need to talk
25 about your appellate rights. You do have the right to appeal

1 my sentence, and there are two things that you need to know
2 about that and to take away from this hearing. The first is
3 that there's going to be an order entered on my sentence which
4 I just announced, and that will happen today, and that event
5 starts a 14-day period running. Now, what that means is that
6 in the next 14 days you have to decide whether you want to
7 appeal my sentence. You need to talk to Mr. Nunzio about
8 that. He can tell you what your options are. He can tell you
9 what the potential consequences are, and I'm sure he can
10 answer any of your questions, but the important thing, the
11 bottom line is that it's your responsibility to let him know
12 within 14 days if you want to pursue an appeal so he can do
13 what's necessary to make sure that happens.

14 The second thing you need to know is that in the
15 event you do wish to appeal, Mr. Nunzio will continue to
16 represent you. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. Is there is anything else, Mr.
19 Castle?

20 MR. CASTLE: Nothing more from the government, Your
21 Honor.

22 THE COURT: Mr. Nunzio?

23 MR. NUNZIO: Your Honor, I don't know if this is an
24 appropriate time to bring this up, but counsel is going to be
25 unavailable starting tonight for the next 14 days,

1 unfortunately. I finish up the last of the cases involving
2 the plot to kidnap and kill the governor of the state of
3 Michigan up in Antrim County. I know Mr. Batt is indigent at
4 this point in time, and I don't know if it's appropriate or
5 not and certainly will let counsel know, but at this point in
6 time for purposes of him to have a good discussion with a
7 lawyer regarding his appellate avenue, we'd ask the Court to
8 appoint him other counsel because I'm going to be unavailable.
9 I'm due up in Antrim starting tomorrow morning, and I'm not
10 going to be available, and I don't know if this is
11 appropriate. Forgive me if it's not.

12 THE COURT: Well, it's as good a time as any. We
13 will refer it to the magistrate judge to take the information
14 about indigency and, if necessary, to appoint counsel.

15 MR. NUNZIO: Thank you very much, Your Honor. I'm
16 sorry to bring it up at this point in time.

17 THE COURT: No problem.

18 Okay. That all being said, nothing further to put on
19 the record here. Mr. Batt is remanded to the custody of the
20 federal marshal, and we're adjourned.

21 THE CLERK: All rise, please. Court is now
22 adjourned.

23 *(Whereupon, hearing concluded at 11:47 a.m.)*
24
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REPORTER'S CERTIFICATE

I, Genevieve A. Hamlin, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/ Genevieve A. Hamlin

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